

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By \_\_\_\_\_

1 AMEND House Committee Substitute for Senate Bill No. 12, Page 14, Section 600.090, Line 70, by  
2 inserting after all of said section and line the following:

3  
4 "650.058. 1. Notwithstanding the sovereign immunity of the state, any individual who was  
5 found guilty of a felony in a Missouri court and was later determined to be actually innocent of such  
6 crime solely as a result of DNA profiling analysis may be paid restitution. The individual may  
7 receive an amount of fifty dollars per day for each day of postconviction incarceration for the crime  
8 for which the individual is determined to be actually innocent. The petition for the payment of said  
9 restitution shall be filed with the sentencing court. For the purposes of this section, the term "actually  
10 innocent" shall mean:

11 (1) The individual was convicted of a felony for which a final order of release was entered by  
12 the court;

13 (2) All appeals of the order of release have been exhausted;

14 (3) The individual was not serving any term of a sentence for any other crime concurrently  
15 with the sentence for which he or she is determined to be actually innocent, unless such individual  
16 was serving another concurrent sentence because his or her parole was revoked by a court or the  
17 board of probation and parole in connection with the crime for which the person has been  
18 exonerated; and

19 (4) Testing ordered under section 547.035, or testing by the order of any state or federal  
20 court, if such person was exonerated on or before August 28, 2004, or testing ordered under section  
21 650.055, if such person was or is exonerated after August 28, 2004, demonstrates a person's  
22 innocence of the crime for which the person is in custody.

23 Any individual who receives restitution under this section shall be prohibited from seeking any civil  
24 redress from the state, its departments and agencies, or any employee thereof, or any political  
25 subdivision or its employees. This section shall not be construed as a waiver of sovereign immunity  
26 for any purposes other than the restitution provided for herein. The department of corrections shall  
27 determine the aggregate amount of restitution owed during a fiscal year. If insufficient moneys are  
28 appropriated each fiscal year to pay restitution to such persons, the department shall pay each  
29 individual who has received an order awarding restitution a pro rata share of the amount  
30 appropriated. Provided sufficient moneys are appropriated to the department, the amounts owed to  
31 such individual shall be paid on June thirtieth of each subsequent fiscal year, until such time as the  
32 restitution to the individual has been paid in full. However, no individual awarded restitution under  
33 this subsection shall receive more than thirty-six thousand five hundred dollars during each fiscal  
34 year. No interest on unpaid restitution shall be awarded to the individual. No individual who has  
35 been determined by the court to be actually innocent shall be responsible for the costs of care under  
36 section 217.831.

37 2. If the results of the DNA testing confirm the person's guilt, then the person filing for DNA

Action Taken \_\_\_\_\_ Date \_\_\_\_\_

1 testing under section 547.035, shall:

2 (1) Be liable for any reasonable costs incurred when conducting the DNA test, including but  
3 not limited to the cost of the test. Such costs shall be determined by the court and shall be included in  
4 the findings of fact and conclusions of law made by the court; and

5 (2) Be sanctioned under the provisions of section 217.262.

6 3. A petition for payment of restitution under this section may only be filed by the individual  
7 determined to be actually innocent or the individual's legal guardian. No claim or petition for  
8 restitution under this section may be filed by the individual's heirs or assigns. An individual's right to  
9 receive restitution under this section is not assignable or otherwise transferrable. The state's  
10 obligation to pay restitution under this section shall cease upon the individual's death. Any  
11 beneficiary designation that purports to bequeath, assign, or otherwise convey the right to receive  
12 such restitution shall be void and unenforceable.

13 4. An individual who is determined to be actually innocent of a crime under this chapter shall  
14 automatically be granted an order of expungement from the court in which he or she pled guilty or  
15 was sentenced to expunge from all official records all recordations of his or her arrest, plea, trial or  
16 conviction. Upon granting of the order of expungement, the records and files maintained in any  
17 administrative or court proceeding in an associate or circuit division of the court shall be confidential  
18 and only available to the parties or by order of the court for good cause shown. The effect of such  
19 order shall be to restore such person to the status he or she occupied prior to such arrest, plea or  
20 conviction and as if such event had never taken place. No person as to whom such order has been  
21 entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise  
22 giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea,  
23 trial, conviction or expungement in response to any inquiry made of him or her for any purpose  
24 whatsoever and no such inquiry shall be made for information relating to an expungement under this  
25 section.

26 5. Any individual incarcerated as a result of a probation or parole revocation based upon a  
27 crime for which the individual is determined to be actually innocent may receive an amount of fifty  
28 dollars per day for each day of post-revocation incarceration. For the purpose of this subsection, the  
29 basis of revocation shall be determined by the face of the order of revocation issued by the board of  
30 probation and parole or court."; and

31  
32 Further amend said bill by amending the title, enacting clause, and intersectional references  
33 accordingly.